

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

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CYNTHIA ADKINS,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

* * * * *

* No. 13-295V
* Special Master Christian J. Moran
*
* Filed: October 22, 2014
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* Attorneys' fees and costs; award
* in the amount to which
* respondent does not object.
*

Isaiah R. Kalinowski, Maglio Christopher and Toale, PA., Washington, DC, for petitioner.

Claudia B. Gangi, United States Dep't of Justice, Washington, D.C., for respondent.

UNPUBLISHED DECISION ON FEES AND COSTS¹

On October 17, 2014, petitioner filed a stipulation of fact concerning final attorneys' fees and costs in the above-captioned matter. Previously, petitioner informally submitted a draft application for attorneys' fees and costs to respondent for review. Upon review of petitioner's application, respondent raised objections to certain items. Based on subsequent discussions, petitioner amended her application to request \$12,831.05, an amount to which respondent does not object. The Court awards this amount.

On April 29, 2013, Cynthia Adkins filed a petition for compensation alleging that the Diphtheria, Tetanus, acellular-Pertussis ("DTaP") vaccination, which she received on April 22, 2011, caused her to suffer Guillain-Barré

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

syndrome (“GBS”). Following an unsuccessful search for an expert witness, petitioner filed a stipulation of dismissal pursuant to Vaccine Rule 21(a) on July 25, 2014. An order concluding proceedings was issued on July 29, 2014.

Even though Ms. Adkins did not receive compensation, a petitioner who brings her petition in good faith and who has a reasonable basis for the petition may be awarded attorneys’ fees and costs. See 42 U.S.C. § 300aa–15(e)(1). Here, counsel for petitioner gathered and filed medical records, attempted to obtain an expert report, and moved to conclude proceedings when petitioner determined that she was unable to locate an expert to opine on her case. Thus, because petitioner’s counsel acted in good faith and because there was a reasonable basis for proceeding, petitioner is eligible for an award of attorneys’ fees and costs. Respondent does not contend that petitioner failed to satisfy these criteria.

Petitioner seeks a total of **\$12,831.05** in attorneys’ fees and costs for her counsel. Additionally, in compliance with General Order No. 9, petitioner states that she incurred no out-of-pocket litigation expenses while pursuing this claim. Respondent has no objection to the amount requested for attorneys’ fees and costs.

After reviewing the request, the Court awards the following:

A lump sum of \$12,831.05 in the form of a check made payable to petitioner and petitioner’s attorney, Isaiah R. Kalinowski, for attorneys’ fees and other litigation costs available under 42 U.S.C. § 300aa-15(e).

The Court thanks the parties for their cooperative efforts in resolving this matter. The Clerk shall enter judgment accordingly.

Any questions may be directed to my law clerk, Mary Holmes, at (202) 357-6353.

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master